

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

CARL JEROME HOLMES,

Petitioner,

VS.

B. G. COMPTON,

Respondent.

CIVIL ACTION NO.: 7:04-CV-125 (HL)

ORDER

Before the Court is petitioner **CARL JEROME HOLMES** notice of appeal (Tab # 22) from the Court's March 10, 2006 Order, which adopted the United States Magistrate Judge's recommendation that petitioner's 28 U.S.C. § 2254 petition be dismissed as untimely. (Tab # 18, 20) The Eleventh Circuit Court of Appeals has mandated that the Court construe petitioner's notice of appeal as an application for a certificate of appealability ("COA") pursuant to 28 U.S.C. § 2253(c). *Edwards v. United States*, 114 F.3d 1083 (11th Cir. 1997).

Under section 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in the United States Magistrate Judge's recommendation and this Court's Order accepting the same, the Court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

SO ORDERED, this 28th day of March, 2006.

s/ **Hugh Lawson**
HUGH LAWSON, JUDGE

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